

MUSEUM OF THE HERMITAGE,
ST. PETERSBURG.

On it being first of all rumoured that Klenze had been commissioned by the Emperor Nicholas to prepare designs for a Museum at St. Petersburg, the natural supposition was, that the building was to be an entirely new and distinct one, as was the case with the Glyptothek, and the Pinakothek at Munich, the reputation of which most probably led to the architect's being employed by the Russian sovereign. It now turns out, however, that the structure will not add to the number of the architectural monuments of St. Petersburg, as it is only a rebuilding and extension of the Hermitage Palace, in which the "Raffaello Gallery," so called from its being a facsimile imitation of the Loggia of the Vatican, is retained. Still, if description may be trusted, it is very greatly superior to what has been removed to make way for it; and though only an appendage to the Imperial Palace, it is in itself much larger than many palaces, the general plan forming a parallelogram of 520 by 380 feet, English measure, which is not very far short of the area of the whole of the quadrangle and buildings of the upper ward of Windsor Castle. The largest of the inner courts is 215 by 130 feet; the general height of the façades 74 feet, and that of the pavilions at the angles, 106 feet. In regard to the character of its details, the style of design is Greek, and it would seem the design itself is in some respects similar to the architect's idea for the Pantheon, at Athens, published in his "Entwürfe." Of the actual composition, however, it is impossible to speak from the verbal description given of it; for let the last be ever so correct as far as it goes, so many circumstances indispensably requisite to be understood, are passed over in it, that it is more tantalizing than satisfactory, leaving altogether doubtful some very material points. The *socle*, which is of reddish granite, is 11 feet high, and must therefore be of colossal proportions, and produce a most imposing effect, if it be really what the term applied to it imports—a solid sub-structure, in appearance at least, without windows of any sort. Nothing being said to the contrary, we are left to suppose that such is really the case; but it would have been far more satisfactory to have been distinctly assured of it, since it makes a most prodigious difference indeed whether it be so or not. Colossal must also be the effect of a mass, nearly the entire height of the Reform Club House, but with only two ranges of windows, reared on such a basement. This part of the structure is of greyish stone, with some intermixture of reddish granite for the details, yet to what extent the latter is applied is not said; hardly at all, we should think, can it have been employed for any of the more delicate and enriched parts, and enrichment does not appear to have been at all spared, for we are told of arabesque panels, sculptured friezes, statues, some supported on consoles, others within niches, hermes-pillars, &c. &c. In short, the description makes magnificent promise to the ear; but whether the structure itself would keep such promise to the eye, is what we will not pledge for. Description is equally favourable to the interior, but equally perplexing also, being by far too indefinite; a vast deal of magnificence is spoken of—variegated marble columns, inlaid pavements of Grecian design, and other matters of that kind, but it is all shapeless. Almost the only part which we can figure to ourselves at all intelligibly is the grand staircase, 130 feet long, by 50 in breadth, with its twenty marble Corinthian columns, and three successive flights of marble steps (22 feet wide), ascending in a direct line. At any rate, in such a staircase there must be an air of extraordinary pomp. The rooms on the lower floor are intended for the reception of sculpture, vases, and miscellaneous antiquities; those above for a picture-gallery, distributed into a series of rooms, some very spacious, and lighted from above, as in the Munich Pinakothek, for larger pictures; others as cabinets, for smaller pictures, besides various loggias and corridors. The contents of the museum will be so arranged, that the apartments will have more the air of being decorated with them, as in a private palace, than of being the exhibition-rooms of a public museum, which sometimes give the idea of a bazaar, at others, of a chancel-house of art, stored with works, immortal, perhaps, in fame, but perishable, and even perished; interesting, but utterly illegible inscriptions, limbless statues, featureless busts, and pictures touched and retouched by time, till they have become only so many grim blackened canvases, and melancholy memento-moria.

Although the building was not begun until the Spring of 1842, the Museum of the Hermitage is expected to be completed by the end of the present summer, notwithstanding its great extent and the prodigious solidity of its constructions. In some places such an edifice would have been the work of a quarter of a century.—*Art Union*.

AUCTION DUTY.

WILSON v. CAREY AND CUNNINGTON.

It is a common practice for persons who employ an auctioneer to sell property, to instruct another person to attend at the sale and bid, with a view to raise the price. Some very nice questions of law may spring out of such a proceeding; for instance, who is liable to the auction duty, that is, who is the highest bidder? What is a valid demand of the auction duty?

As a general rule, the auctioneer, agent, or seller by commission, is bound to pay the auction duty, which he may deduct out of the money he receives at the sale; and if he receive none, he may recover it from the vendor by action. Buying in by the owner, however, is a statutable exemption, if it take place without fraud or collusion, and notice be given in writing to the auctioneer before such bidding, signed by the owner, and the person intended to be the bidder, of the latter being appointed by the former, and having accordingly agreed to bid at the sale for his use, and if the delivery of such notice, as also the fairness of the transaction to the best of his knowledge, be verified by the oath of the auctioneer. It is usual to make some provision respecting the payment of the auction duty, as that the vendor and purchaser shall pay it in equal moieties: and where the purchase-money is liable to the duty, a stipulation of this nature should never be omitted, unless the vendor intends to pay the whole duty. The eighth section of stat. 17 Geo. 3, c. 50, directs, that in case it is made a condition of sale that the auction duty shall be paid by the purchaser, the auctioneer is to demand payment of it, "and upon neglect or refusal to pay the same, such bidding shall be null and void to all intents and purposes."

At the last spring Assizes for the county of Lincoln, the case, the title of which is prefixed to this article, was tried before Mr. Baron Alderson. It appeared that the two defendants, being partners, and jointly interested in the sale of certain lands, which they had employed the plaintiff to sell, one of them, Cunningham, without the knowledge of the plaintiff, engaged one J. Hames to make an advance of 100*l.* upon a bidding of 3,000*l.* for the lot No. 4, with a view to raise the price. The lot was knocked down to Hames for the sum of 3,100*l.* It was one of the conditions of sale read by the plaintiff, that the auction duty was to be paid by the purchaser immediately after the sale. The lot No. 4, having been knocked down to Hames, two other lots, belonging to different persons, were sold, and shortly after the end of the entire day's sale, the plaintiff demanded the auction duty of Hames, who refused to pay it, alleging that he had bid, not for himself, but for Cunningham. The defendants also refused to pay it. The plaintiff thereupon brought his action in debt, and at the trial it was contended that certain issues raised by the pleadings ought to be found for the defendant on the grounds, first, that Hames, being a mere agent bidding for Cunningham, was not to be considered as the highest bidder; secondly, that there was no legal demand of auction duty, the demand having been made, not at the termination of the bidding for lot 4, but at the close of the entire day's sale. Both points were overruled by the learned judge, who directed the jury to find a verdict for the plaintiff, reserving leave to the defendants to move to enter a verdict for them on all the issues.

On the 22nd of April last Serjeant Clarke moved accordingly, contending that the language of the statute 17 Geo. 3, c. 50, s. 8, "and upon neglect or refusal to pay the same, such bidding shall be null and void to all intents and purposes," shewed that the demand ought to have been made at the close of the bidding for lot 4, and not at the end of the business for the day; the object of the act being, that the parties should not be too late to enforce the previous bidding. The Barons of the Exchequer, however, unanimously refused the rule for which the learned serjeant applied; and Mr. Baron Parke said, "The first question depends upon the construction of the conditions of sale. Undoubtedly the auctioneer might have stipulated for the payment of the duty by the purchaser at the close of the bidding; but it is enough, for the decision of this question, to say, that no such agreement appears by the conditions to have been made; secondly, I think Hames is to be considered the highest bidder for the purposes of this declaration. The auctioneer was not in fault; he did all that was required of him; he did not know that Hames was bidding merely as the agent of Cunningham."

That the reader may understand this decision, it must be stated, that a purchaser of goods at an auction, cannot, by refusing to pay the auction duty, to which he is made liable by statute 17 Geo. 3, c. 50, s. 8, make the bidding void. Thus, in the case of *Mallins v. Freeman*, which is reported at page 614 of vol. 6 of Serjeant Dowling's Practice Cases, Chief Justice Tindal observed, "The

words of the act are large; that nothing is to restrain the auctioneer from making it a condition of sale, that the purchaser shall pay the auction duty; and he is authorized to demand it; and in the event of a refusal to pay, the bidding is to be void. I cannot distinguish this in principle from the case of *Doe d. Bryen v. Benckey* 4 B. & A. 401; and there it was held, that a lease of coals, containing a proviso, that it should be void to all interests and purposes, if the tenant should cease working, was not absolutely void by the lease ceasing to work, but voidable only at the option of the lessor, and not of the lessee. We must put an analogous construction upon the act, otherwise we should convert this provision, which is intended to be a protection to vendors, into one favourable to purchasers, and by which frauds might be committed." The case which formed the subject-matter of this article gives a construction to the Act of Geo. III. still more extensive, a construction that will prevent concert between the vendor and bidder for the purpose of defrauding the revenue. If it were optional in the vendor, as against the crown, to vitiate the bidding because the bidder refuses to pay the duty, there being a stipulation in the conditions of sale that the purchaser shall pay it, it would be easy for the vendor and bidder to make an arrangement by which the revenue would be defrauded, and the vendor still have all the advantages of a public auction. In the case under consideration the vendors had, by means of a public auction, found a person willing to pay 3,000*l.* for lot 4; had a verdict passed for the defendants, they would have had the advantage of the auction without any payment of duty. Had the auctioneer had notice that Hames was the agent of Cunningham, he would have called upon him for the duty at once, and if the instructions of Hames were to let the property go for 3,000*l.*, he would have refused to pay the duty, when the bidding would have become void, and the property might have been knocked down to the next *bona fide* bidder. The auctioneer had no choice but to pay the duty, for the second section of statute 42 Geo. 3, c. 93, provides that, to exempt a vendor from payment of the duty, every notice of the appointment of a bidder must, at the time appointed by law for the auctioneer's passing his account of the sale, be produced by the auctioneer to the officer authorized to pass the account of such sale, and also be left with the officer. As the case of *Mallins v. Freeman* shews that the bidding, as between vendor and purchaser, is voidable at the option of the vendor only, it is obviously not incumbent on the auctioneer, in the discharge of his duty towards his employer, to demand the duty even at the end of the day's sale, though for his own convenience he will demand it then, or immediately after the bidding. The practical instruction to be gathered from the case of *Wilson v. Carey* may be thus expressed:—Notice of the appointment of a bidder, and of the lowest price for which the vendor is willing to part with his property, should be given to the auctioneer, who should be instructed, in the event of the appointed bidder being declared the highest bidder at a sum that exceeds the price named in the notice, to call on him at once for the auction duty, and, on his refusal, to declare the bidding void under the statute 17 Geo. 3, c. 50, s. 8, and knock down the property to the preceding bidder."

The appointment of a bidder, and a notice to the auctioneer embodying the instruction just suggested by one of several parties jointly interested, would appear to be good, even without notice to the other parties, because his right so to do would be clear in the absence of an agreement to the contrary; and were such an agreement to exist, there would be a remedy by action for the breach.

FOLKESTONE.—A great many workmen are now employed in forming the railway to the harbour: upwards of 20 houses are already down, and many more will be removed in a short time. The contractor for clearing the harbour has put on more men, who work night and day. The pier is being made wider, and is lighted with gas.

A valuable discovery of objects of antiquity has just been made by M. Bontarel, inspector of rivers and forests, in the Crown forest of Cornouet (Finistère), not far from the chateau of that name, which is now in ruins. After removing a large mass of earth of a tumular form, and a large stone beneath it, a tomb was discovered in perfect preservation. It was formed of slabs cemented together with a wax-like substance, which on exposure to the air acquired the hardness of stone. In the tomb were found a massive gold chain, about 19 feet in length, the links of which were round, and six in number; six small arrows, formed of transparent flint; three lance-heads, one of which was of solid silver, about 18 inches in length, and a sword. Some remnants of ashes and baked earth were also remarked on the slabs. It is supposed to have been the burial-place of some distinguished Gaulish chief.